



Convention on the Rights of the Child

Committee on the Rights of the Child

54 th Session

25 May – 11 June 2010

Consideration of Reports Submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of The Child on the Involvement of Children in Armed Conflict

Concluding observations: The Former Yugoslav Republic of Macedonia

1. The Committee considered the initial report of the former Yugoslav Republic of Macedonia (CRC/C/OPAC/MKD/1) at its 1512th meeting, held on 28 May 2010 (CRC/C/SR.1512) and adopted at its 1541st meeting, held on 11 June 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol and the written replies to its list of issues. The Committee appreciates the dialogue with the high-level multi-sectoral delegation of the State party, led by the Minister of Labour and Social Policy.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations adopted on the State party's second periodic report under the Convention on the Rights of the Child and initial report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography adopted on the 11 June 2010, contained in CRC/C/MKD/CO/2 and CRC/C/OPSC/MKD/CO/1 respectively.

Positive aspects

4. The Committee notes with appreciation the declaration made at the time of ratification by the State party that under national legislation there are no possibilities, neither on obligatory or voluntary grounds, to recruit any person younger than 18 years of age for military service, and that Article 62 of the Law on Defence sets forth that drafted persons shall be directed to military service after attaining 19 years of age.

5. The Committee welcomes the ratification or accession by the State party to the following international mechanisms:

(a) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime on 14 September 2007;

(b) the ILO Convention No. 182 concerning the Prohibition and Immediate Action on the Elimination of the Worst Forms of Child Labour on 30 May 2002; and

(c) the Rome Statute of the International Criminal Court on 6 March 2002.

I. General measures of implementation

Dissemination and training

6. While noting that campaigns are principally carried out by NGOs, the Committee is concerned that the State party is not making sufficient efforts to disseminate the Optional Protocol among all relevant professional groups. In addition, the Committee is concerned that the State party does not organise training specifically on the provisions of the Optional Protocol.

7. In the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among children. The Committee further recommends that appropriate human rights training, especially on the provisions of the Optional Protocol, is offered to all relevant professional groups, in particular the armed forces and members of international peacekeeping forces, law enforcement and immigration officers, and social workers.

II. Prevention

Peace education

8. The Committee is concerned that there are no programmes to systematically include peace education into the school curricula. With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party undertake efforts to include peace education in the school curricula, with special reference to crimes covered by the Optional Protocol.

III. Prohibition and related matters

Criminal legislation and regulations in force

9. The Committee notes as positive efforts of the State party to integrate the provisions of the Optional Protocol in relevant legislation. While noting that military and paramilitary groups not part of the armed forces are prohibited through Article 20 (4) of the Constitution, the Committee regrets that the recruitment or use in hostilities of persons under the age of 18 years by armed groups other than the armed forces is not specifically prohibited and criminalized.

10. In light of Article 4, the Committee recommends that the State party amend legislation to ensure that the recruitment and use in hostilities of persons under the age of 18 years by armed groups other than the armed forces is specifically prohibited and criminalised.

Jurisdiction and extradition

11. The Committee notes information about the possibility to establish extraterritorial jurisdiction in cases of forced recruitment or involvement in hostilities of a person under the age of 18 years if committed by or against one of its nationals. However, it regrets that the penal legislation does not allow extraterritorial jurisdiction for all the cases referred to in article 4 (2) of the Optional Protocol. Furthermore, the Committee is concerned that extraterritorial jurisdiction is subject to the criterion of dual criminality and that extradition is subject to the existence of a bilateral treaty.

12. The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extra-territorial jurisdiction over war crimes of conscription and enlistment of children in hostilities, taking also into account relevant international instruments to which it is party, including the Rome Statute of the International Criminal Court, and further recommends establishing extraterritorial jurisdiction over crimes under the Optional Protocol without the criterion of dual criminality. The Committee further recommends that the State party consider the Optional Protocol to be a legal basis for extradition without the condition of the existence of a bilateral treaty.

IV. Protection, recovery and reintegration

13. The Committee appreciates ongoing cooperation with UNHCR and amendments to the Law on Asylum and Temporary Protection reflecting the best interests of the child as a primary consideration and child-specific and gender-specific forms of persecution as a factor in the examination of asylum applications; and the introduction of an obligation to prioritise the tracing of family members. The Committee is, nevertheless, concerned that while no child soldiers have been identified, there are a few children among refugees and asylum-seekers who come from countries where children are involved in armed conflict. Furthermore, the Committee is concerned about the absence of information on mechanisms to identify children who have been involved in armed conflict and to follow up with unaccompanied and separated children once they leave the reception centre.

14. The Committee recommends that the State party continue cooperating with partners, including UNHCR, and implement the provisions of the Law on Asylum and Temporary Protection regarding the examination of asylum applications and family tracing. In addition, the Committee recommends that the State party put mechanisms in place to identify children who have been involved in armed conflict in order to ensure adequate protection, recovery and reintegration and establish a mechanism to follow up with unaccompanied and separated children once they leave the reception centre.

15. While welcoming the provision in the Law on Protection of Children, as amended in 2009, entitling child victims of armed conflict to recovery, rehabilitation, and reintegration, the Committee is concerned that the relevant authorities may not have the capacity and training to provide identified child victims with specialised care and assistance for recovery and reintegration.

16. In light of Article 6 (3) of the Optional Protocol, the Committee recommends that the State party develop protocols and specialised services to ensure that child victims are provided with appropriate assistance for their physical and psychological recovery and social reintegration.

V. International assistance and cooperation

International assistance and cooperation

17. The Committee notes with appreciation the cooperation of the State party with the International Criminal Tribunal for the former Yugoslavia and the State party's contribution to international peacekeeping efforts. The Committee encourages the State party to support multilateral and bilateral activities to address the rights of the child involved in armed conflict, in particular by promoting preventive measures as well as physical and psychological recovery and social reintegration of child victims of acts contrary to the Optional Protocol.

Arms export

18. The Committee regrets the absence of information on national legislation prohibiting the trade and export of small arms and light weapons as well as military assistance to countries where children are or have been involved in armed conflict. The Committee is

further concerned about recent reports of arms smuggling into neighbouring regions.

19. The Committee urges the State party to strengthen activities contrary to the implementation of the Optional Protocol and in particular to review its legislation to ensure:

(a) The explicit prohibition of trade and export of small arms and light weapons to countries where children are known to have been involved in armed conflict; and

(b) That illicit activities, including the manufacturing and trafficking of small arms and light weapons, are criminalised, that records are maintained and firearms marked, taking into account the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

VII. Follow-up and dissemination

20. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to Parliament, to the National Commission on the Rights of the Child, to the Ministry of Defence and to the Ministry of Education, and for all relevant ministries, national and local authorities for appropriate consideration and further action.

21. The Committee recommends that the concluding observations adopted by the Committee be made widely available to the public at large and to children in particular in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

VIII. Next report

22. In accordance with Article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.